UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

American Medical	Response of Southern
California	

Employer

and

Case No. 21-RC-106534

National Association of Government Employees/SEIU Local 5000

Petitioner

and

National Emergency Medical Services Association (NEMSA)

Intervenor

and

United Emergency Medical Services Workers, AFSCME Local 4911, AFL-CIO

Intervenor

NATIONAL EMERGENCY MEDICAL SERVICES ASSOCIATION'S SUPPLEMENT TO REQUEST FOR REVIEW OF THE DECISION AND DIRECTION OF ELECTION

The National Emergency Medical Services Association ("NEMSA") hereby supplements its Request for Review of the Regional Director's Decision and Direction of Election issued on July 19, 2013 ("D&DE"). In its Request for Review of the D&DE, NEMSA asked the Board not to proceed with the representation election ordered by the Regional Director in light of a recommendation from the United States District Court for the District of Massachusetts that Petitioner National Association of Government Employees ("NAGE") be directed to withdraw the representation petition. NEMSA noted that the District Court's recommendation was expected to become an order.

After considering NAGE's opposition to the District Court's recommendation, the District Court issued an order on August 23, 2013 granting NEMSA's request for a preliminary injunction. Among other things, the District Court's order directs that:

- "(1) NAGE shall be restrained and enjoined from participating in any election(s) in which it would be seeking to replace NEMSA or otherwise challenge NEMSA's status as the representative for any existing employees or bargaining units;
- (2) NAGE shall withdraw all pending petitions to decertify NEMSA as the representative of any existing bargaining units; and
- (3) NAGE shall be restrained and enjoined from pursuing further efforts to decertify NEMSA as the representative of any existing bargaining units."

Order dated August 23, 2013, United States District Judge Joseph L. Tauro, Civil Action No. 13-10854-JLT (Attachment 1)(emphasis added)

The mail ballot election ordered by the Regional Director is currently underway. The ballots will be counted at the Region 21 office on Friday, September 6, 2013. For the reasons stated in NEMSA's Request for Review of the D&DE, and in light of the District Court's order, the Board should grant review of the D&DE and direct the Regional Director to impound the ballots upon receipt and neither open nor count the ballots so that NAGE may withdraw the petition as ordered by the District Court.

Dated: August 23, 2013

Respectfully submitted,

Timothy K. Talbot Talbot Law Group

105 E Street, Suite 2E

Davis, CA 95616

(530) 792-7211

ttalbot@talbotlawgroup.com

Legal Counsel for National Emergency

Medical Services Association

ATTACHMENT 1

UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, INC.,

*

Plaintiff,

.

Civil Action No. 13-10854-JLT

NATIONAL EMERGENCY MEDICAL SERVICES ASSOCIATION, INC., and TORREN K. COLCORD,

*

Defendant.

*

ORDER

August 23, 2013

TAURO, J.

This court ACCEPTS and ADOPTS the July 16, 2013, <u>Report and Recommendation</u>
[#47] of Magistrate Judge Dien. For the reasons set forth in the <u>Report and Recommendation</u>,
this court hereby orders that:

- Plaintiff National Association of Government Employees, Inc.'s ("NAGE")
 Motion to Strike Counterclaims [#40] is ALLOWED. The court treats the verified counterclaim as an affidavit in support of Defendant's request for a preliminary injunction.
- 2. Defendant Colcord's Motion for a Preliminary Injunction [#27] is DENIED.
- 3. Defendant National Emergency Medical Services Association, Inc.'s ("NEMSA")

 Motion for a Preliminary Injunction [#27] is ALLOWED. Pending the outcome of any requests for preliminary relief submitted in arbitration proceedings between NAGE and NEMSA, it is hereby ordered that (1) NAGE shall be restrained and

Case 1:13-cv-10854-JLT Document 68 Filed 08/23/13 Page 2 of 2

enjoined from participating in any election(s) in which it would be seeking to

replace NEMSA or otherwise challenge NEMSA's status as the representative for

any existing employees or bargaining units; (2) NAGE shall withdraw all pending

petitions to decertify NEMSA as the representative of any existing bargaining

units; and (3) NAGE shall be restrained and enjoined from pursuing further efforts

to decertify NEMSA as the representative of any existing bargaining units.

4. The court clarifies that the facts that form the basis of the preliminary injunction

are not in dispute. Accordingly, an evidentiary hearing is not necessary. In pages

nineteen through twenty of its objections, NAGE claims that four facts are in

dispute. None of the facts described in these two pages forms the basis of this

court's order. Even if this court were to accept NAGE's version of these facts as

true, an injunction would still be appropriate in this case.

5. NEMSA must now post a bond pursuant to § 107 of the Norris-LaGuardia Act, 28

U.S.C. §§ 101-115. This court refers the determination of the proper bond to

Magistrate Judge Dein.

IT IS SO ORDERED.

/s/ Joseph L. Tauro United States District Judge

¹ Several of the "facts" that NAGE lists as disputed are legal conclusions rather than facts, such as "whether NAGE properly terminated the Agreement" and "the balance of harms." The court does not consider NAGE's legal conclusions, but only NAGE's version of the facts.

CERTIFICATE OF SERVICE

I, Heidi Primack Talbot, certify that on August 23, 2013, I e-filed and served via email and/or fax the National Emergency Medical Services Association's Supplement to Request for Review of the Decision and Direction of Election to the following persons:

Linda Ledesma-Mouzon NAGE/IAEP 1819 Knoll Drive, #7 Ventura, CA 93003 lmouzon@nage.org

Sheila K. Sexton Beeson, Tayer & Bodine Ross House, Suite 200 483 Ninth Street Oakland CA 94607-4051 ssexton@beesontayer.com

Scott Rowekamp Labor and Employment Counsel Envision Healthcare (formerly EMSC) 6200 South Syracuse Way, Suite 200 Greenwood Village, Colorado 80111 Scott.Rowekamp@emsc.net

Olivia Garcia, Regional Director NLRB, Region 21 888 S Figueroa Street, 9th Floor Los Angeles, CA 90017-5449 Fax: **(213) 894-2778**

/s/ Heidi Primack Talbot